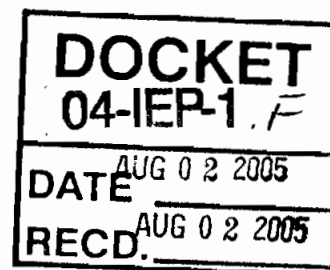




August 2, 2005

California Energy Commission
Dockets Unit
Attn: Docket No. 04-IEP-1F
1516 Ninth Street, MS-4
Sacramento, CA 95814-5512



Re: Strategic Transmission Planning Issues and Transmission Staff Report

The following comments are being submitted for the record by the League of California Cities (LCC), the California State Association of Counties (CSAC), and the Regional Council of Rural Counties (RCRC). We appreciate the opportunity to provide a local government perspective on this important issue. Also, please find attached our joint comments, dated May 20, 2005, submitted in response to the Thursday, May 19, 2005 workshop on Corridor and Strategic Transmission Planning. These comments are submitted for a second time for the record as they remain pertinent to the topic.

The Energy Commission is seeking input/comment on the staff report entitled *Upgrading California's Electric Transmission System: Issues and Actions for 2005 and Beyond*. Specifically, input is sought on whether the staff accurately captured parties input, whether there are other relevant points, were appropriate conclusions drawn, and were the policy options identified appropriate.

The Energy Commission staff report acknowledges local government concerns in two similar paragraphs in the report. For example, in the Executive Summary mention is made of the workshop on the topic and that "Several parties expressed concerns that a state-led corridor planning and designation process could affect property owners, preempt local agency land use permitting authority, and burden local governments with the costs associated with updating land use plans to reflect designated transmission corridor zones." Given our very serious concerns we believe a discussion of the issues raised, as opposed to a mere listing of our concerns, would be appropriate.

Energy Commission staff have identified three "essential" components to a state-led planning process – a process that identifies the need for corridors, corridor designation authority and a corridor designation process that sets land aside for future corridor use, and a change in the current regulations to allow utilities to rate base the cost of land acquired for future needs for longer periods of time.

Energy Commission staff envisions that the Energy Report process will be an important forum for involving stakeholders in discussions on corridor planning. If this process is to truly be collaborative, effort will have to be made to reach out to interested "stakeholders" beyond those utilities and others who routinely attend Energy Report workshops and hearings. This process in

itself is not adequate, and we urge the establishment of Corridor Study Groups in areas where a need has been identified. Utilities, local agencies, stakeholders and the public working together to identify potential future corridors is preferable to the proposed heavy-handed corridor designation process that sets land aside for future corridor use as proposed in SB 1059. Our comments will focus largely on this issue.

Our organizations recognize that staff propose in the report that the Energy Commission encourage the California Public Utilities Commission (CPUC) to begin a proceeding on land banking. The staff report states that, "This corridor planning process can only be successful if the length of time utilities can keep land acquired for future needs in the rate base is extended beyond the current five-year limit." We support this change in existing law. The report also notes that "Federal and state policies pose significant barriers to meeting the Renewables Portfolio Standard goals, especially those concerning the rules for funding transmission system facilities." Our organizations believe that it should be a higher priority for the State to dismantle these barriers to funding transmission infrastructure than it is to set aside privately held land without a means to fund acquisition. One of our points of opposition to the proposed designation authority and transmission corridor process in SB 1059 is that fact that the State proposes to tie up land for an undetermined length of time without landowner compensation.

The report states the Energy Commission staff believes that the most efficient way to acquire land for future corridors is to rely on utilities to do it. Our understanding is that there is a distinct difference between a "corridor" and a "route" i.e. the route of a transmission line or lines could vary, depending on circumstances, within a corridor. Confirmation of our understanding of the differences in the terms is found in the Energy Commission staff report which makes reference to "alternative routes within each corridor."

As we understand it, the utilities currently acquire a right-of-way for a "route" when they have a project. If the CPUC extends the length of time utilities can keep land acquired for future needs in the rate base, it would allow the utilities to acquire right-of-ways for future use, but the Energy Commission staff goes one step further when it recommends that the State rely on the utilities to acquire land for future corridors. The question arises as to whether it is appropriate for ratepayers to finance the acquisition of land for corridors, as opposed to routes needed for a transmission line or lines. This is not a point on which we offer an opinion at this time, but one that should be discussed.

Energy Commission staff indicate in the report that state designation of corridors will provide utilities with future permitting certainty and an incentive to acquire land for future system expansion. It is unclear to us the logic behind this statement. SB 1059 would preempt local land use authority by requiring local governments to amend their general plans to be consistent with the Energy Commission's designation of a transmission corridor. As a result, SB 1059 would limit the future uses of the land in the designated corridor to ensure that future incompatible uses do not limit the use of planned corridors. These use limitations would apply until such time as a decision is made to actually site a transmission line or the designation is repealed. Under the Energy Commission proposal, land in the corridor is held for future use as a result of local government enforcement of the Energy Commission corridor designation. We do not understand what incentive a utility would have to acquire a "corridor" as opposed to a "route" associated with a future project. Is the "incentive" due to the fact that the land within the designated corridor is devalued due to limits on its uses and as a result can be acquired at a lower cost than it might be otherwise, making it cost effective to acquire more land than actually needed for a project right-of-way?

Our organizations strongly oppose the preemption of local land use authority and the requirement that local governments amend their general plans to be consistent with the Energy Commission designation of a transmission corridor. Even more important than the costs involved in amending general plans, which is significant, is our concern relative to regulatory takings lawsuits filed against local government entities required to enforce the corridor designation and preclude "incompatible" uses.

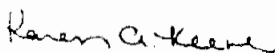
Energy Commission staff proposes that a transmission corridor be defined as a linear strip of land with width determined by land use, environmental, and topographical factors and study needs, and that width of a corridor, for corridor designation purposes, is directly related to system needs determined during the Energy Report process. This definition is ambiguous to say the least. While one might easily accept the premise that corridor size may vary depending on circumstances such as topography as common sense, the regulatory nature of the Energy Commission proposal preclude our support for any definition that does not specify an outer limit or maximum width.

The Energy Commission staff report states, "In the absence of state authority to designate transmission corridors, benefits could still be realized by identifying future corridors in areas where transmission infrastructure will be needed in the future. The Energy Commission could recommend in the Strategic Plan that utilities work with local agencies, stakeholders, and the public to" This process, in our opinion, is preferable to the process proposed by the Energy Commission in SB 1059.

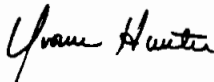
In conclusion, our organizations do not believe that one could say that the Energy Commission staff in *Upgrading California's Electric Transmission System: Issues and Actions for 2005 and Beyond* accurately captured our previous input by merely listing the issues raised, nor was there a discussion of the relevant points we made. Absent an in depth discussion of the issues we have raised, we do not believe that it can be said that appropriate conclusions were drawn or that the policy options identified are appropriate.

The LCC, CSAC, and RCRC appreciate the opportunity to comment once again on this important topic.

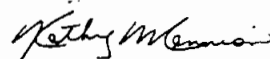
Sincerely,



Karen Keene
CSAC



Yvonne Hunter
LCC



Kathy Mannion
RCRC

cc: Senator Martha Escutia
Secretary Mike Chrisman, Resources Agency
Dennis Albiani, Office of the Governor, Legislative Unit
Pat Dando, Office of the Governor, Local Government Director
Members, California Energy Commission